

**CONSOLIDATED TO 30 JUNE 2012**

**LAWS OF SEYCHELLES**

**CHAPTER 168**

**PETROLEUM MINING (POLLUTION CONTROL) ACT**

Act 18 of 1976  
Act 6 of 1977  
Act 15 of 1977  
Act 14 of 1980

*[NOT YET IN FORCE]*

**ARRANGEMENT OF SECTIONS**

1. Short title
2. Commencement
3. Definitions
4. Liability for petroleum pollution
5. Exemption from liability under section 4
6. Restriction of liability for petroleum pollution
7. Limitation
8. Liability for cost of preventive measures where section 4 does not apply
9. Saving of recourse action
10. Compulsory insurance against liability for pollution
11. Rights of third parties against insurers
12. Regulations

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1. This Act may be cited as the Petroleum Mining (Pollution Control) Act.
  2. \*This Act shall come into operation on such date as the Minister may, by order, appoint.

**Note: This Act had not been brought into operation as at 30 June 2012.**

3. (1) In this Act, unless the context otherwise requires-

"continental shelf" means the continental shelf of Seychelles and comprises the area defined in section 5 of the Maritime Zones Act;

"damage" includes loss;

"foreshore" means land which is alternatively covered and uncovered by the sea at the highest and lowest tides;

"land in Seychelles" means the surface area of the islands of Seychelles and includes-

- (a) land covered by water;
- (b) the foreshore; and
- (c) the sea-bed and subsoil beneath the territorial waters and the continental shelf;

"licensee" means-

- (a) a person whom an exploration licence is granted under section 6 of the Petroleum Mining Act;
- (b) a Company that is a party to a petroleum agreement under section 9 of that Act; and
- (c) the assign of any person referred to in paragraph (a) or (b);

"mining operations" means operations for the winning of petroleum and includes the sinking of a well in the course of exploring for petroleum;

"petroleum" means-

- (a) any naturally occurring hydrocarbons whether in gaseous, liquid or solid state, but excluding coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;
- (b) any naturally occurring mixture of hydrocarbons, whether in gaseous, liquid or solid state;
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in gaseous, liquid or solid state, and one or more of the following that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide;

and includes any petroleum as defined by paragraph (a), (b), or (c) that has been returned to its natural reservoir;

"territorial waters" means the territorial waters of Seychelles and comprises the area defined in section 3(2) of the Maritime Zone Act .

(2) A person does not cease to incur liability as a licensee under section 4 in respect of any discharge of petroleum by reason only of ceasing to be a licensee after the occurrence which gave rise to the liability.

(3) Subject to this Act, this Act, applies to a person who is a licensee at the commencement of this Act or who thereafter becomes a licensee.

(4) The word "person" in sections 4(2) and 5(b) includes the Republic.

**4.** (1) Where, as a result of any occurrence taking place during mining operations any petroleum is discharged, the licensee carrying on those operations is liable, except as otherwise provided by this Act -

(a) for any damage caused to land in Seychelles by contamination resulting from the discharge;

(b) for the cost of any measures reasonably taken after the discharge for the purpose of preventing or reducing any such damage to land in Seychelles; and

(c) for any damage caused to land in Seychelles by any measures so taken.

(2) For the purposes of this Act, where more than one discharge results from the same occurrence or from a series of occurrence having the same origin, they shall be treated as one discharge, but any measures taken subsequent to the first of them shall be deemed to have been taken after the discharge.

(3) If the licensee proves that the damage caused by the contamination resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the licensee shall be exonerated wholly or partly from his liability to that person.

(4) The extent of the liability incurred under this section in respect of any discharge of petroleum may be limited (whether as to the amount or otherwise) by regulations made under section 12.

**5.** A licensee does not incur any liability under section 4 in respect of any discharge of petroleum if he proves that the discharge-

(a) resulted from an act of war, hostility, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

(b) was due wholly to anything done or left undone by another person, not being a servant or agent of the licensee, with intent to do damage.

**6.** (1) Where, as a result of any occurrence taking place during mining operations any petroleum is discharged, the liability (if any) under section 4(1) (a) of the licensee in respect of damage, as a result of the discharge, to any lands in Seychelles that are public lands, is to the Republic and no other person.

(2) Where, as a result of any occurrence taking place during mining operations any petroleum is discharged then, whether or not the licensee incurs liability under section 4-

(a) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in that section; and

- (b) no servant or agent of the licensee shall be liable for any such damage or cost.

(3) For the purpose of this section, "public lands" means-

- (a) the sea-bed and subsoil beneath the territorial water inland waters and the continental shelf;
- (b) land forming part of the domaine public;
- (c) lands vested in the President on behalf of the Government of Seychelles (whether or not subject to any trust),

but does not include land held under a lease by or from the Government or by or from any person on behalf of the Government.

**7.** No action to enforce a claim in respect of a liability incurred under section 4 shall be entertained by any court unless the action is commenced not later than two years after the occurrence or the first of the occurrences resulting in the discharge giving rise to the liability.

**8.** Where-

- (a) after a discharge of petroleum during mining operations measures are taken for the purpose of preventing or reducing damage to land in Seychelles which may be caused by contamination resulting from the discharge; and
- (b) any person incurs, or might but for the measures taken have incurred, a liability, otherwise than under section 4, for any such damage,

then, notwithstanding that subsection 1(b) of that section does not apply, he is liable for the cost of the measures, whether or not the person taking them does so for the protection of his interest or in the performance of a duty.

**9.** Nothing in this Act shall prejudice any claim, or the enforcement of any claim, which a person incurring any liability under this Act may have against another person in respect of that liability.

**10.** (1) No licensee shall carry on mining operations unless there is in force in respect of any liability that the licensee may incur under section 4 as a result of those operations a contract of insurance or other security in an amount determined in such manner as may be prescribed and otherwise complying with such requirement as may be prescribed.

(2) A licensee who does not comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding five thousand rupees for each day during which the offence continues.

**11.** (1) Where it is alleged that a licensee has incurred any liability under section 4 as a result of any discharge of petroleum occurring while there is in force in respect of that liability such a contract of insurance or other security as is referred to in section 10, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in subsection (2) referred to as the "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the licensee's liability) to prove that the discharge or escape was due to the wilful misconduct of the licensee himself.

**12.** (1) The Minister may make regulations-

- (a) for the purposes of section 4(4);
- (b) with respect to any matter which may be prescribed under this Act;
- (c) with respect to the prevention and control of pollution and may prescribe measures to be taken in that connection by a licensee or by other persons;
- (d) with respect to the carrying on of mining operations so as to prevent petroleum pollution.

(2) Regulations made under this section may provide in respect of any contravention thereof that the offender shall be guilty of an offence and liable to a fine of R.100,000, or, in respect of a continuing offence, to a fine of R20,000 in respect of each day during which it continues and to imprisonment for 2 years.

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NO SUBSIDIARY LEGISLATION  
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